

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**STEVE OSBORN,**

**Plaintiff,**

**vs.**

**9:20-CV-673  
(TJM/ATB)**

**DEBORAH HARRIS, et al.,**

**Defendants.**

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**Thomas J. McAvoy,  
Sr. U.S. District Judge**

**DECISION & ORDER**

The Court referred this action to Magistrate Judge Andrew T. Baxter for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). Plaintiff brought this case pursuant to 42 U.S.C. § 1983, alleging that Defendants, officers at the Oneida County Correctional Facility (“OCCF”), violated his constitutional rights in various ways. After initial review and motion practice, the only claim that remained was Plaintiff’s claim that Defendant Deborah Harris, a Lieutenant at the OCCF, violated Plaintiff’s First Amendment rights by retaliating against him for filing grievances. After discovery, Defendant Harris filed a motion for summary judgment. See dkt. # 46. Plaintiff did not respond to the motion.

Judge Baxter’s Report-Recommendation, dkt. # 51, issued on August 2, 2022, recommends that the Court grant Defendant’s motion. After evaluating all of the evidence,

Judge Baxter concludes that Plaintiff did not exhaust his administrative remedies with reference to the First Amendment retaliation claim. In the alternative, Judge Baxter finds that Plaintiff has not produced any admissible evidence to demonstrate that Defendant Harris retaliated against him for filing grievances at the OCCF.

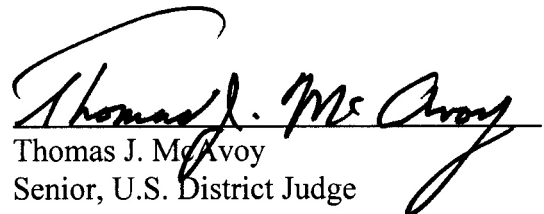
No party objected to the Report-Recommendation. The time for such objections has passed. After examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice and the Court will accept and adopt the Report-Recommendation for the reasons stated therein.

Accordingly:

The Report-Recommendation of Judge Baxter, dkt. # 51, is hereby **ACCEPTED** and **ADOPTED**. Defendant Harris's motion for summary judgment, dkt. # 46, is hereby **GRANTED**. The Clerk of Court is directed to close the case.

**IT IS SO ORDERED.**

**Dated:** September 9, 2022

  
Thomas J. McAvoy  
Senior, U.S. District Judge